UNITED
NATIONS

E

Economic and Social
Council

Distr.
GENERAL

E/CN.4/1999/NGO/94
11 March 1999

Original: ENGLISH

COMMISSION ON HUMAN RIGHTS
Fifty-fifth session
Item 10 of the provisional agenda

ECONOMIC, SOCIAL AND CULTURAL RIGHTS

Written statement submitted by Human Rights Advocates, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement, which is circulated in accordance with Economic and Social Council resolution 1996/31.

[18 February 1999]

GE.99-11402 (E)

Adverse effects of the illicit movement and dumping of toxic and dangerous products and waste on the enjoyment of human rights

1. Human Rights Advocates (HRA), in conjunction with Natural Heritage Institute (NHI), 1/ submit this written statement to the Commission on Human Rights. The statement is an addendum to a larger report that HRA/NHI has submitted to aid the Special Rapporteur in her investigations of the illicit transport and dumping of toxic and dangerous substances.

2. Ms. Fatma Zhora-Ksentini who was appointed as Special Rapporteur to study and recommend solutions concerning the adverse effects of the illicit transboundary transport and dumping of toxic substances on the enjoyment of human rights, has submitted several reports documenting numerous cases that illustrate the ongoing problem. 2/ While her mandate has successfully brought international attention to the illegal transboundary movement and dumping of toxic and dangerous substances and its impact on human rights, there is an urgent need to expand her mandate to focus on the overarching issue of human rights and the environment.

3. The transport and dumping of harmful substances endanger human rights and the environment. In many instances, information regarding the handling of dangerous substances is either concealed or inaccurate, so that people are unknowingly exposed to the hazard. As a result, people may be injured, become sick or die. Such outcomes constitute violations of universally observed human rights: the rights to life, health, information, participation, a safe working and living environment, and safe water and food supplies. The violations occur whether the transport is between or within countries, legal or illegal.

4. While some international safeguards have been developed to address the transport of hazardous substances, they are limited in their effectiveness. The Basel and Bamako Conventions are designed to encourage safe management and transport of hazardous substances. However, many countries have not ratified the Basel Convention, which entered into force in 1992. The Bamako Convention, designed to protect African States from the adverse effects of hazardous substance transportation, is not in force. Neither of the Conventions addresses fully the human rights violations that result from the movement of hazardous substances. Both focus on the cross-border movement of hazardous substances and, as a result, ignore environmental and human rights abuses that may exclusively occur within a country. In addition, recourse is only offered against Governments, not the multinational corporations that are often responsible for the transportation and generation of these wastes. The Conventions' inefficiencies are exacerbated in many countries that lack the capacity either to classify or manage hazardous substances.

5. HRA/NHI have provided documentation to the Special Rapporteur demonstrating worldwide environmental abuses and human rights violations.

(a) The following cases involve the illicit transboundary movement of toxic substances:

(i) Recently, Cambodia discovered 3,000 tons of mercury-tainted waste that had been generated by a Taiwanese company and

transported from Taiwan to Cambodia for disposal. 3/ Several illnesses and deaths appear to be linked to the disposal of the wastes; villagers near the disposal site complained of diarrhoea 4/ and dizziness. 5/ After cleaning the ship that had transported the waste, one dock worker died and four were hospitalized with symptoms resembling mercury poisoning. 6/ Unconfirmed reports claim that one citizen died while protesting against officials who allegedly allowed the wastes into Cambodia. 7/ Four people died in road accidents while fleeing the contaminated area. 8/

(ii) During the late 1980s, large quantities of highly toxic substances were secretly shipped from Italy to Lebanon for disposal. They were distributed to the Lebanese public as reusable substances and dumped in several sites throughout Lebanon. Scientific tests have determined that the materials are 100 per cent toxic. Doctors in Lebanon determined that people suffered severe health effects from contact with the substances. 9/ Despite partial clean-up efforts, recent scientific tests indicate that the hazardous materials remain in the soil and continue to threaten the health of the people living and working near the disposal sites. 10/

(iii) The Chernobyl disaster of 1986 led to the illicit export of radioactive dairy products worldwide. 11/ Despite increased measures by some countries and organizations to prevent the export of radioactive dairy products, radioactive food was found in consumer markets throughout the world as recently as 1993. 12/ The radiation levels of some food products registered up to 10 times the permissible limit set by the World Health Organization and the European Union. 13/ Ingestion of those radioactive products may have caused birth defects and cancer in humans. 14/ Unfortunately, the health effects suffered by those who ingested the radioactive products are difficult to trace because the diseases caused by radiation exposure have long incubation periods. 15/

(b) The following cases demonstrate the need to expand the Special Rapporteur's mandate to include human rights and the environment:

(i) The shipbreaking industry involves the transport of retired ships to shipyards for destruction. The ships are disassembled into components, often manually. The process is extremely dangerous to human health as most of the ships contain highly toxic materials known to cause cancer, asbestosis and birth defects. Unfortunately, many labourers are unaware of the health consequences, and many countries receiving toxic ships do not have adequate regulations or enforcement mechanisms to protect labourers from exposure to these toxins. Consequently, workers have suffered severe health consequences from participating in shipbreaking. 16/

Although the transport of toxic ships involves the transboundary movement of hazardous substances, the shipbreaking process is not governed by the Basel Convention and does not fall within the scope of the Special Rapporteur's current mandate, since the transport of the toxic ships is legal.

(ii) In Canazas, Panama, a Canadian mining operation is producing and disposing cyanide wastes in the town centre. Evidence suggests that several people have become seriously ill from exposure to the cyanide fumes and ingestion of cyanide contaminated food and water. There have been local reports of leukaemia, skin irritation, headaches, visual problems and nausea. 17/ Since the mine's hazardous waste does not involve transboundary movement, the Special Rapporteur is not authorized under her mandate to investigate this problem.

(iii) Chevron, a United States petroleum corporation operating in Angola has been releasing its contaminated drums to the local community. HRA/NHI reported Chevron's dangerous practice to the Commission last year during its fifty-fourth session. 18/ If the Special Rapporteur's mandate were expanded to include human rights and the environment, she could investigate this matter.

6. In the light of these continuing problems, HRA/NHI recommend that the Commission:

(a) Consistent with the suggestion of the Bureau of the Commission on Human Rights, expand the Special Rapporteur's mandate to human rights and the environment;

(i) The expansion of the mandate would enable the Rapporteur to investigate matters involving not only the illicit, but the legal transboundary transport of hazardous and dangerous products that threaten the environment and human rights, as in the case of shipbreaking;

(ii) Expanding the mandate would enable the Rapporteur to investigate matters involving the creation of harmful substances within a country by a foreign corporation; the Canadian mine in Panama and Chevron in Angola are two examples.

(b) Create a mechanism to compensate the families of victims and victims who have been injured owing to the transport and dumping of hazardous substances;

(i) Develop a liability scheme to determine the type of compensation victims should receive and penalties for human rights violations;

(ii) Establish a compensation fund to pay for damage to human health and loss of income.

(c) Recommend to the Secretariat for the Basel Convention that ships containing substances be included as "toxic wastes" subject to the Basel Convention regulations.

7. HRA/NHI recommend that the Special Rapporteur:

(a) Conduct investigations concerning the health and safety problems suffered by labourers in the shipbreaking industry;

(i) Identify the regulations needed to protect shipbreakers from the dangers of the industry;

(ii) Collaborate with the World Health Organization and International Labour Organization to investigate health and safety hazards and develop universal safety standards for the industry;

(iii) Recommend minimum precautionary measures for exporting countries to adopt (for example, warning labels on hazardous materials).

(b) Investigate the sites in Lebanon that still contain toxic materials shipped from Italy;

(i) Recommend additional measures to decontaminate soil at these sites at the expense of the parties responsible;

(ii) Test groundwater and aquifers near sites to determine whether drinking water is contaminated with the toxic substances.

(c) Investigate reports of the transport of radioactive dairy products following the 1986 Chernobyl disaster and the human rights violations that occurred as a result;

(i) Encourage the development of universal standards limiting the export of radioactive foods and establishing maximum acceptable levels of radioactivity in food fit for human consumption;

(d) Support the clean-up and removal of mercury-tainted waste in Cambodia and recommend compensation for damages directly caused by the wastes.

(e) Examine the local health impact of the mining operations in Canazas, Panama;

(i) Test groundwater and local river for cyanide contamination;

(ii) Conduct air quality tests for cyanide concentration level.

Notes

1/ Natural Heritage Institute is a non-profit, non-governmental organization which provides counselling and advocacy for public interest organizations and governmental institutions on natural resource problems, including international conservation and human rights.

2/ See E/CN.4/1996/17, E/CN.4/1997/19, E/CN.4/1998/10 and Adds.1 and 2.

3/ Chris Fontaine, "Test shows Taiwan waste very toxic", Associated Press, 25 December 1998.

4/ Huw Watkin, "Fears of imported toxic waste spreading", South Chi Morning Post, 17 December 1998.

5/ Chhay Sophal, "Three killed in accidents fleeing toxic waste are Reuters, 21 December 1998.

6/ Chris Fontaine, "Cambodia waste no immediate threat", Associated Press, 28 December 1998.

7/ Idem.

8/ Ker Munthit, "Cambodian dumping probe moves on", Associated Pres 25 December 1998.

9/ Fouad Hamden, "Waste trade in the Mediterranean, toxic attack against Lebanon: case one, toxics from Italy", Greenpeace Mediterranean, August 1996.

10/ Fouad Hamden, "Lebanese quarry contaminated by toxic waste is reactivated, Greenpeace Mediterranean, 13 January 1998.

11/ "Summing up the consequences of the accident", International Conference: One Decade After Chernobyl, Vienna, Austria, 8-12 April 1996, p.6.

12/ "Nestle ordered to return radioactive milk", Reuters North American Wire, 27 November 1993.

13/ Daniel Egger, "West Germany pours hot milk: Chernobyl's cup runneth over", The Nation, 28 March 1987, vol.44, p.392; See also "Bonn to destroy radioactive milk at centre of scandal", Reuters North European Servi 4 February 1987.

14/ Idem.

15/ Daniel Egger, "West Germany pours hot milk: Chernobyl's cup runneth over", The Nation, 28 March 1987, vol.44. p.392.

16/ Will Englund and Gary Cohn, "A third world dump for America's ships?", The Baltimore Sun, 9 December 1997.

17/ "Panamanian regulator calls for closure of mine", Drillbits and Tailings, 7 October 1998, vol.3, No.19, p.3.

18/ E/CN.4/1998/NGO/44.

- - - - -